

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

SUHAIL NAJIM ABDULLAH AL SHIMARI,
et al.,

Plaintiffs,

v.

CACI PREMIER TECHNOLOGY, INC.,

Defendant.

No. 1:08-cv-827 (LMB/JFA)

CACI PREMIER TECHNOLOGY, INC.,

Third-Party Plaintiff,

v.

UNITED STATES OF AMERICA,
and JOHN DOES 1–60,

Third-Party Defendants.

STIPULATION PURSUANT TO RULE 29

WHEREAS on April 20, 2018, this Court ordered that “plaintiffs conduct the deposition of former plaintiff Taha Yaseen Arraq Rashid by May 31, 2018,” ECF No. 768;

WHEREAS plaintiffs have made arrangements for former plaintiff Rashid to be available for a videoconference deposition on May 7, 2018 from a to-be-determined location accessible to him in the country of Iraq;

WHEREAS the United States of America, as a sovereign nation, routinely takes appropriate diplomatic steps before participating in discovery that takes place in whole or in part in the territory of another sovereign;

WHEREAS the United States of America, pursuant to its sovereign interests, wishes to ensure that appropriate security measures exist at any deposition in which it participates and has notified plaintiffs' counsel that it may seek to have its counsel attend the deposition in person;

WHEREAS the United States of America, to the extent it remains a third-party defendant in the above-captioned action, asserts the right to be informed of the location where the plaintiff is to be deposed and to ensure that the conditions of the deposition comport with the Federal Rules of Civil Procedure, including that a meaningful oath be administered;

WHEREAS, in service of the diplomatic, security, and party interests described above, the United States of America requested that counsel for plaintiffs provide the location of the deposition to counsel for the United States for its use, including for sharing with the government of Iraq as appropriate in furtherance of its diplomatic and security interests;

WHEREAS former plaintiff Rashid has instructed plaintiffs' counsel that they may not share the location of the May 7, 2018 deposition with the United States or Iraqi governments, due to his concerns about continued persecution and harassment by various parties in Iraq; and,

WHEREAS former plaintiff Rashid does not wish to delay the May 7, 2018 deposition to another date;

Pursuant to Fed. R. Civ. P. 29, it is HEREBY STIPULATED by and between the United States of America and plaintiffs in the above-entitled action, through their respective counsel, that:

- 1) The United States will not object to the videoconference deposition of plaintiff Rashid proceeding without participation by counsel for the United States on May 7, 2018;
- 2) The United States reserves the right to subsequently depose former plaintiff Rashid in accordance with its rights under the Federal Rules of Civil Procedure, Local Rules of the United States District Court for the Eastern District of Virginia, and other applicable sources of law to meaningfully participate in a foreign deposition and to do so in accordance with the United States' diplomatic interests and obligations;
- 3) The United States, plaintiffs, and former plaintiff Rashid expressly confirm that, if the Motion to Dismiss by the United States (ECF No. 696) is not granted in full on or before June 5, 2018, the parties will work together to negotiate the conditions of the second deposition;
- 4) Former plaintiff Rashid reserves the right to contest the scope and/or method of the deposition, but will not object based on the fact that a previous deposition was taken or that the United States must attempt in good faith to satisfy its diplomatic interests and diplomatic obligations concerning the taking of a foreign deposition;
- 5) Any subsequent deposition will be a separate deposition from the deposition scheduled for May 7, 2018, notwithstanding the completion (or lack thereof) of the May 7, 2018 deposition;
- 6) Counsel for the United States, the plaintiffs, and former plaintiff Rashid will seek to schedule this deposition between the first day after Eid Al-Fitr (June 18) and July 13, 2018, the final day of discovery in this action;

- 7) In the event the Court is needed to resolve any conflict between the United States, the plaintiffs and former plaintiff Rashid regarding the terms and conditions of the second deposition, the deposition will nevertheless be considered “voluntary” for purposes of the United States’ diplomatic obligations to meaningfully participate in a foreign deposition;
- 8) Counsel for the United States, the plaintiffs, and former plaintiff Rashid agree that, by entering into this stipulation, plaintiffs and former plaintiff Rashid are not waiving their rights to object to the form, substance, or subject matter of any question posed during the deposition; and,
- 9) This agreement shall supersede any other practice, rule, precedent, or other source of law, including, but not limited to, the Local Rules and Standing Orders of this Court and the Federal Rules of Civil Procedure.

THE PARTIES, THROUGH COUNSEL OF RECORD, SO STIPULATE.

Dated: *May 3, 2018*

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

TRACY DOHERTY-MCCORMICK
Acting United States Attorney

/s/
LAUREN A. WETZLER
Chief, Civil Division
Assistant United States Attorney
United States Attorney’s Office
2100 Jamieson Ave.
Alexandria, VA 22314

Tel: (703) 299-3752
Fax: (703) 299-3983
Email: Lauren.Wetzler@usdoj.gov

JAMES G. TOUHEY
Director, Torts Branch
RUPERT M. MITSCH
Assistant Director, Torts Branch
ELLIOTT M. DAVIS
PAUL STERN
Trial Attorneys, Torts Branch
United States Department of Justice
Post Office Box 888
Washington, DC 20044
Tel: (202) 616-4206
Fax: (202) 616-5200
Email: elliot.m.davis@usdoj.gov

ANTHONY J. COPPOLINO
Deputy Branch Director
ADAM G. KIRSCHNER
ERIC J. SOSKIN
Senior Trial Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel: (202) 353-9265
Fax: (202) 616-8470
Email: Eric.Soskin@usdoj.gov

Attorneys for the United States

/s/

John Kenneth Zwerling
The Law Offices of John Kenneth Zwerling, P.C.
114 North Alfred Street
Alexandria, VA 22314
jz@zwerling.com

Baher Azmy, *Admitted pro hac vice*
Katherine Gallagher, *Admitted pro hac vice*
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor

New York, NY 10012

Robert P. LoBue, *Admitted pro hac vice*
PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
New York, NY 10036

Shereef Hadi Akeel, *Admitted pro hac vice*
AKEEL & VALENTINE, P.C.
888 West Big Beaver Road
Troy, MI 48084-4736

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on May 3, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the following counsel of record:

John Kenneth Zwerling
The Law Offices of John Kenneth Zwerling, P.C.
114 North Alfred Street
Alexandria, VA 22314
jz@zwerling.com

Conor P. Brady
Steptoe & Johnson LLP
1330 Connecticut Ave., N.W.
Washington, DC 20036
cbrady@steptoe.com

William D. Dolan, III
Law Offices of William D. Dolan, III, PC
8270 Greensboro Drive, Suite 700
Tysons Corner, VA 22102
wdolan@dolanlaw.net

_____/s/_____
LAUREN A. WETZLER
Chief, Civil Division
Assistant United States Attorney
United States Attorney's Office
2100 Jamieson Ave.
Alexandria, VA 22314
Tel: (703) 299-3752
Fax: (703) 299-3983
Email: Lauren.Wetzler@usdoj.gov